

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF ADOPTION AND
RULE I and the amendment of ARM	)	AMENDMENT
12.11.3201 and 12.11.3205	)	
pertaining to No Wake Zones on	)	
Canyon Ferry Reservoir	)	

TO: All Concerned Persons

1. On November 2, 2018, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-507 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 2163 of the 2018 Montana Administrative Register, Issue Number 21. On March 15, 2019, the commission published a notice of extension of comment period on the amended proposed adoption and amendments at page 273 of the 2019 Montana Administrative Register, Issue Number 5.

2. The commission has adopted the following rule as proposed and published in the original proposal notice published on November 2, 2018, page 2163, Issue number 21: NEW RULE I (12.11.1002).

3. The commission has amended the following rules as proposed in the original proposal notice published on November 2, 2018, page 2163, Issue Number 21: ARM 12.11.3201 and 12.11.3205.

4. The commission has thoroughly considered the comments and testimony received. A summary of the comments received and the commission's responses are as follows:

COMMENT #1: The commission received comments requesting that Magpie Bay have a no-wake zone in the entire bay or surrounding all docks in the bay for safety reasons as the bay gets extremely busy and congested.

RESPONSE #1: Magpie Bay currently has a no-wake zone restriction of 300 feet from docks or as buoyed per ARM 12.11.3201.

COMMENT #2: The commission received a comment requesting that a no-wake buoy be placed in the bay of lots 39 to 52 on the east side of the reservoir.

RESPONSE #2: The commission adopts no-wake zones, and the Department of Fish, Wildlife and Parks (department or FWP) may mark them with a buoy where needed. If the bay in question has been adopted as a no-wake zone there will likely be a buoy placed if it is needed. If there is not a no-wake zone in the area, there will not be a buoy placed.

COMMENT #3: The commission received a comment requesting that no-wake zones be established around private docks as well as public docks.

RESPONSE #3: The commission feels that most private docks that exist in busy bays will now be covered by a no-wake zone by the adoption and amendment of these rules.

COMMENT #4: The commission received a few comments suggesting that a 200- to 300-foot no-wake zone be put in place around the shorelines of the reservoir, just as the lakes in the Western Fishing District are.

RESPONSE #4: In response to these comments, the commission extended public comment on an amended alternative proposal of a 200-foot no-wake zone around the northern end of the lake, starting from Kayley Bay and continuing to Crittenden Bay, so as to cover all docks, homes, cabins, and campgrounds.

COMMENT #5: The commission received comments in support of a no-wake zone on the northern end of the reservoir to include all cabins, homes, and docks. Comments in support referenced safety, erosion, and boat and dock damage, and that creating this no-wake zone would only affect 5% of the lake shore, leaving lots of room for boating in the middle of the lake and on the southern shores.

RESPONSE #5: The commission does agree that there are areas of the reservoir that have become busy and congested and need no-wake zones for safety. The commission has adopted their first proposal which will put no-wake zones in many of the areas where there are docks and where complaints have been received.

COMMENT #6: The commission received comments regarding enforcement of no-wake zone restrictions on the reservoir, including questioning how they will be enforced and requesting more enforcement patrols especially on weekends.

RESPONSE #6: FWP wardens will work during the summer season to enforce the boating regulations on Canyon Ferry including the newly adopted regulations. Questions, concerns, and violation reports should be directed to the FWP Helena Area Resource Office enforcement staff.

COMMENT #7: The commission received a comment suggesting that the no-wake zones be marked by buoys.

RESPONSE #7: Newly established no-wake zones will be marked with a buoy where needed and appropriate.

COMMENT #8: The commission received comments in opposition to a no-wake zone on the northern end of the reservoir and to no-wake zones around private docks and cabins. Some comments were received by property owners who expressed that the no-wake zones would limit their recreation at their docks and in front of their cabins. One comment stated that one of the original purposes of the

creation of Canyon Ferry Reservoir was for recreation and that many people purchased cabin sites specifically for this reason. Some comments in opposition were received by non-property owners, who expressed that no-wake zones around private docks and cabins would provide exclusivity for property owners and deter other boats from using those bays.

RESPONSE #8: The commission decided not to adopt the 200-foot no-wake zone on the entire northern end of the reservoir as it is broad and was likely a larger no-wake zone than is needed at this time. The commission has adopted their first proposal which will put no-wake zones in many of the areas that are heavily congested, where there are docks, and where the most complaints have been received.

COMMENT #9: The commission received comments requesting that the entirety of Kayley Bay should be no-wake.

RESPONSE #9: The commission has adopted its original proposal, creating a 500-yard no-wake zone from the mouth of Kayley Bay, or as buoyed.

COMMENT #10: The commission received a comment suggesting that no-wake zone distance should be defined in the ARM as "approximate," and that certain boats with deep hulls may need to be addressed differently.

RESPONSE #10: The commission has described all no-wake zones in ARM by either feet or yards or as marked by buoys. The commission realizes that it may be difficult to judge exact distances when there are not buoys, but FWP enforcement has the discretion to determine whether or not boaters are at the approximate distances. While it may be true that bigger boats with deep hulls can create larger wakes, it would be difficult to enforce restrictions on different sized boats.

COMMENT #11: The commission received a comment questioning what the fiscal impact of the no-wake zones would be, including the cost of education.

RESPONSE #11: FWP wardens currently conduct enforcement patrols and boating education activities in the Helena area. The new regulations will have a minimal fiscal impact as boating safety enforcement and education are already part of warden duties.

COMMENT #12: The commission received a comment in support of a ban of all motorized recreation on Canyon Ferry Reservoir. The commission also received a comment in support of a ban of motorized use in all bays.

RESPONSE #12: While the commission believes that there are busy areas and bays of the reservoir that need to have a no-wake zone for safety reasons, the rest of the reservoir is vast and open and should be left for the enjoyment of all forms of recreation. The commission hopes that the no-wake zones that are designated on the reservoir will provide safe areas for non-motorized recreational use.

COMMENT #13: The commission received a comment questioning how the no-wake zones would impact boats that cause big wakes outside of the wake zone, but whose wakes carry thousands of feet and still reach the shores.

RESPONSE #13: The no-wake zones will not have an impact on boats creating wakes outside of the no-wake zones. Wakes are bound to happen in the no-wake zones from both boats outside of the zones and from winds, making it impossible to prevent all wakes from hitting shores. The no-wake zones are not being put in place to try and eliminate every wake from hitting the shores, but to make congested areas around docks safer.

COMMENT #14: The commission received a comment suggesting that the proposed no-wake zone in Court Sheriff Bay be scaled back to about half the distance that is proposed in the original proposal.

RESPONSE #14: The commission needs to be able to accurately describe where a no-wake zone exists in ARM and felt the best way to make Court Sheriff's no-wake zone clear to the public was to use the mouth of the bay which is defined as the area from the peninsula that extends southeast from Canyon Ferry Village to the opposite shore. It would be difficult to accurately describe in the ARM a smaller no-wake area clearly. The proposal does state that the no-wake zone is at the mouth of the bay "or as buoyed" giving FWP enforcement the discretion to move the buoy further into the bay if they deem it can safely be scaled back.

COMMENT #15: The commission received comments in general opposition to new no-wake zones. Reasons included lack of ability or inability to enforce, opposition to more regulations, erosion occurring more from wind than from wakes, and that no-wake zones are already in place where they are needed.

RESPONSE #15: Distance-related no-wake zones are a common method of regulating high-use boating areas in both Montana and other states and are successfully enforced. Regulations are the only substantive tool the department has to fairly address complaints. Erosion is not a consideration when implementing wake zone regulations as it is impossible to quantify erosion caused by watercraft versus natural processes.

COMMENT #16: A comment was received suggesting that the no-wake regulations should be time-limited to busier hours on the lake, such as weekends and holidays.

RESPONSE #16: This approach has been used in a few other areas in Montana. This may be a consideration in the future if needed. The commission decided to adopt the less restrictive proposal of the two.

COMMENT #17: The commission received a comment in favor of the original proposal of no-wake zones in certain congested bays, over the alternative proposal of a 200-foot no-wake zone on the northern end of the reservoir. The comment

referenced the alternative being too broad, leading to conflict between users, and that some of the areas in the alternative proposal are the only places on the lake where it is calm to water ski. The comment suggested an alternative of a 200-foot no-wake zone from Cemetery Island to the dam, and then specific busy bays and campground areas.

RESPONSE #17: The commission has adopted its original proposal consisting of only establishing new no-wake zones in specific busy and congested bays for the purposes of safety around docks.

/s/ Aimee Hawkaluk  
Aimee Hawkaluk  
Rule Reviewer

/s/ Richard Stuker  
Richard Stuker  
Acting Chair  
Fish and Wildlife Commission

Certified to the Secretary of State April 30, 2019.